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APR 22 2008

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY DEPUTY

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, Plaintiff, v. Martin AYALA-Benitez, Defendant.	Mag. Case No. '08 MJ 8339 COMPLAINT FOR VIOLATION OF Title 8, U.S.C., Section 1326 Deported Alien Found In the United States

The undersigned complainant being duly sworn states:

On or about April 20, 2008, within the Southern District of California, defendant Martin AYALA-Benitez, an alien, who previously had been excluded, deported and removed from the United States to Mexico was found in the United States, without the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States code, section 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8, United States Code, Section 1326.

And the complainant states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

Senior Border Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 22nd DAY OF APRIL 2008.

PETER C. LEWIS
U.S. MAGISTRATE JUDGE

UNITED STATES OF AMERICA

v.

Martin AYALA-Benitez

STATEMENT OF FACTS

The complainant states that this complaint is based upon the statements of the apprehending Border Patrol Agent, A Martinez, that the Defendant, Martin AYALA-Benitez, was found and arrested on April 20, 2008, near Ocotillo, California.

On April 20, 2008, at approximately 4:00 P.M., Agent J. Perez was performing his assigned Border Patrol duties near Ocotillo, California. Agent Perez encountered a group of individuals. After questioning the group of nine individuals it was determined they are all citizens of Mexico illegally in the United States, including one individual later identified as Martin AYALA-Benitez. All nine were arrested and transported to the Imperial, California, Border Patrol Station.

Records check of AYALA revealed he was previously deported by an Immigration Judge on August 6, 1987.

Agent A. Martinez witnessed Agent Yuri read AYALA his rights as per Miranda. AYALA stated he understood his rights and was willing to speak with agents without an attorney present. When questioned, AYALA stated "no" he did not have any documentation to be legally in the United States. When asked if he has ever sought permission to re-enter the United States from the Attorney General AYAYA stated "no."